



नई दिल्ली
NEW DELHI

याचिका संख्या. /Petition No.: 50/MP/2019

कोरम/Coram:

श्री पी. के. पुजारी, अध्यक्ष/Shri P. K. Pujari, Chairperson
डॉ. एम. के. अय्यर, सदस्य/ Dr. M.K. Iyer, Member
श्री आई. एस. झा, सदस्य/Shri I. S. Jha, Member

आदेश दिनांक /Date of Order: 20th of November, 2019

IN THE MATTER OF:

Petition seeking condonation of delay in complying with the procedure for issuance of renewable energy certificates, and to thereafter direct the Respondent to issue the certificates due to the Petitioner.

AND IN THE MATTER OF:

Balrampur Chini Mills Limited (Chemical Division)
Factory: Balrampur District, Balrampur,
Uttar Pradesh-271201
Registered Office: FMC Fortuna, 2nd floor,
234/3A, A. J. C. Bose Road, Kolkata

....PETITIONER

Versus

National Load Despatch Centre
1st Floor, B-9, Qutab Institutional Area,
Katwaria Sarai
New Delhi-110016

...RESPONDENT

Parties Present: Shri Maitreyee Mishra, Advocate, BCML
Ms. Aman Seikh, Advocate, BCMIL
Shri Gajendra Singh, NLDC
Shri Ashok Rajan, NLDC

आदेश/ ORDER

The Petitioner, M/s Balrampur Chini Mills Limited, is engaged in the business of manufacturing sugar, and it owns a renewable energy generating station. In addition, Petitioner has a Chemical Unit called 'Mankapur Chini Mills' with its factory at P.O. Datauli, Mankapur Tehsil, District Gonda, Uttar Pradesh-271 306. Both the units are registered under REC mechanism. The Petitioner has filed the petition under Section 79(1)(k) of the Electricity Act, 2003 and Regulation 2(1)(d) read with Regulation 27 and 111 of the Central Electricity Regulatory Commission (Conduct of Business Regulations) 1999, and Regulations 3, 7 & 14 and 15 of Central Electricity Regulatory Commission (Terms and Conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, (hereinafter referred to as 'REC Regulations, 2010) seeking condonation of delay in complying with the procedure for issuance of renewable energy certificates, and to thereafter direct the Respondent to issue the certificates due to the Petitioner.

2. The Respondent No. 1, National Load Dispatch Centre (hereinafter referred to as 'NLDC') is the Central Agency as designated under sub clause (1) of Regulation 3 of REC Regulations, 2010. The Respondent No. 1 is responsible for undertaking the process of registration of eligible entities, issuance of certificates, maintaining and settling accounts in respect of the certificates as prescribed under the REC Regulations, 2010.
3. The Petitioner has made the following prayers:
 - a. *To condone the delay in applying for issuance of Renewable Energy Certificates due to it for energy injected in the month of February 2018 and consequently direct the Respondent to issue the same.*
 - b. *Pass any other order(s) as deemed fit, necessary and appropriate in favor of the Petitioner.*

Brief facts of the case

4. Balrampur Chini Mills Limited and its unit Mankapur Chini Mills have one project each (hereinafter referred to as 'Projects') based on bio fuel cogeneration technology. Both the Projects are registered under REC mechanism under Registration number UP0NSBCMCD001R240616 (Balrampur Chini Mills Limited) and UP0NSMCMCD002R160117 (Mankapur Chini Mills).
5. On 17.06.2016, the Petitioner entered into a tripartite agreement with Shivshakti Urja Private Limited (hereinafter referred to as 'SUPL/facilitator') and Global Energy Private Limited (hereinafter referred to as 'GEPL/trader')
6. The Petitioner approached SUPL to send the letter dated 20.07.2018 with respect to physical copy of Energy Injection Reports (hereinafter referred to as 'EIRs') of their Projects for February 2018 duly certified by the Uttar Pradesh State Load Despatch Center (hereinafter referred to as 'UPSLDC') to the Respondent.
7. On 04.09.2018, SUPL/facilitator filed the application for issuance of RECs with NLDC.
8. NLDC refused to process the application and have not issued RECs till date.
9. Hence, the Petition has been filed.

Submissions of the Petitioner

10. The Petitioner has submitted that the 'Projects' are registered under REC mechanism under Registration number UP0NSBCMCD001R240616 (Balrampur Chini Mills Limited) and UP0NSMCMCD002R160117 (Mankapur Chini Mills).
11. The Petitioner has submitted that for being issued RECs, the renewable energy generating station has to be first accredited and thereafter registered on the NLDC website. Lastly, an application has to be made for issuance of RECs along with the State Load Despatch Center (hereinafter referred to as 'SLDC') verified EIR. As per Regulation 7(1) and 5(3) of the REC Regulations, 2010; the Petitioner can apply for issuance of RECs within six months from the

date on which renewable energy was generated and injected into the grid, and RECs are generally issued within 15 working days from the receipt of the documents. Subsequently, the certificates can be traded.

12. The Petitioner has submitted that it has entered into a tripartite agreement dated 17.06.2016 between Shivshakti Urja Private Limited (hereinafter referred to as 'SUPL') as the facilitator, Global Energy Private Limited (hereinafter referred to as 'GEPL') as the trader/member, and the Petitioner. The Projects are covered under the tripartite agreement dated 17.06.2016. SUPL, the facilitator, has been appointed for providing advice and assistance in matters of accreditation and re-accreditation, registration of facilities in accordance with the REC Regulations, 2010 and for issuance and sale of certificates. Further, SUPL has also been entrusted with preparation of all necessary documentation, and has to aid the Petitioner in the application process for grant of RECs whereas GEPL, the member/trader, has been appointed for trading of RECs on IEX (Power Exchange).
13. The Petitioner has submitted that on 20.07.2018 it approached SUPL to send the physical copy of EIR of their Projects for February 2018 duly certified by the Uttar Pradesh State Load Despatch Center (hereinafter referred to as 'UPSLDC') to the Respondent. The Respondent was requested for issuance of RECs to the Petitioner. However, the letter alongwith certified EIRs were processed by SUPL and filed along with application for issuance of certificates only on 04.09.2018.
14. The Petitioner has submitted that as per Regulation 7(1) of the REC Regulations, 2010, the Petitioner has to apply to the Respondent for RECs within six months from the corresponding generation. However, since SUPL (facilitator) has submitted that application on 04.09.2018, there was a delay of four days.
15. The Petitioner has submitted that the delay in filing the EIRs along with applications for issue of RECs was caused due to inadvertent inaction/oversight on the part of SUPL (facilitator) in processing the applications and submitting them before the NLDC at a later date than the six months provided under the REC Regulations, 2010 and the same is beyond the control of the Petitioner. This is because the Petitioner, as per the agreements with the facilitators, was dependent on the latter for guiding them through the process of accreditation, registration and issuance of the certificates.

16. The Petitioner has submitted that due to delay in applying for issuance of RECs by four days, the Respondent refused to process the applications, thus leading to non-issuance of eligible RECs and subsequent lapse.
17. The Petitioner has submitted that if the delay is not condoned and the renewable energy certificates are consequently not issued by the Respondent, there would be irreparable financial injury caused to the Petitioner as it would be prevented from trading the certificates and earning revenue. A total of 2470.75 MWh (829.80 MWh + 1640.95 MWh) of eligible energy has been injected by the Projects in the Grid for the month of February 2018. The financial loss is to the tune of Rs. 27,17,825/- (@ Rs 1100/- per certificate if it had been issued in September 2018 and was available for trade thereafter) which would be revenue earned by it if the RECs were allowed to be issued and thereafter traded.
18. The Petitioner has submitted that non-issuance of the RECs for eligible quantum of energy would distort the market mechanism for sale and purchase of electricity and affect achievement of the purpose prescribed under Section 66 of the Electricity Act, 2003 i.e. development of market in electricity including trade. In addition, non-issuance of RECs would prevent obligated entities from complying with their Renewable Purchase Obligations under section 86(1)(e) of the Electricity Act, 2003.

Analysis and Decision

19. The Petition was admitted on 11.04.2019 and came up for hearing on 24.09.2019 and thereafter, the petition was reserved for Orders. On 24.09.2019 the Petitioner submitted that the present Petition has been filed, inter-alia, for seeking condonation of delay in applying for issuance of RECs and to direct NLDC to issue the RECs to the Petitioner. The Representative of NLDC has submitted that *NLDC "has no objection in this regard"*. We have heard the Petitioner and the Respondent and have carefully perused the records.
20. The Petitioner (M/s Balrampur Chini Mills Limited) is engaged in the business of manufacturing sugar, and it owns a renewable energy generating station with accredited capacity of 5 MW. In addition, Petitioner has a Chemical Unit called 'Mankapur Chini Mills' in Uttar Pradesh which also owns a renewable energy generating station with accredited capacity of 5 MW. The Petitioner has entered into a tripartite agreement dated

17.06.2016 signed with M/s Shivshakti Urja Private Limited (SUPL) as the facilitator and M/s Global Energy Private Limited (GEPL) as the trader/member. Both the aforesaid projects are covered under the afore-mentioned tripartite agreement. As per the agreement SUPL/facilitator was responsible for accreditation and Registration of the Projects under REC mechanism. SUPL/facilitator was also responsible for applying for RECs and getting the RECs issued from NLDC.

21. On 20.07.2018, the Petitioner approached SUPL/facilitator to send the physical copy of Energy Injection Reports of their Projects for February 2018 duly certified by the Uttar Pradesh State Load Despatch Center to the Respondent. However, SUPL/facilitator filed the application for issuance of RECs with NLDC only on 04.09.2018. NLDC refused to process the application and did not issue RECs till date due to delay of 4 days in submitting the application.
22. The Commission observes that the only issue involved is *Whether the procedural delay of four days in filing the application for issuance of RECs for the month of February 2018 for both projects of the Petitioner can be condoned and whether the Respondent can be directed to issue equivalent RECs for the energy injected accordingly?*
23. The Commission observes that the Relevant Provisions of *Procedure for Issuance of Renewable Energy Certificates to the Eligible Entity by Central Agency (hereinafter referred to as 'REC Issuance Procedure')* stipulates as under:-

“3. STEP-WISE DESCRIPTION OF THE PROCEDURE

3.1. Step - 1: An application for issuance of Renewable Energy Certificate shall be made by the Eligible Entity to the Central Agency. The eligible entity shall apply for Issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency. The online application shall be acceptable by the Central Agency only if complete in all respect. The physical application for issuance of certificate shall include (i) Energy Injection Report (EIR) for RE projects /Recommendation of SERC for issuance of RECs for distribution licensee, and shall be made in the specified format (FORMAT-3.1: “Application for Issuance of Renewable Energy Certificates to the Eligible Entities”/FORMAT-3.1.1 for distribution licensee) (ii) Print out of online application duly signed and stamped by Authorized Signatory (iii) Commissioning Certificate for RE Generator, only for issuance for the first month after registration.

The application shall be accompanied with the details of payment of the applicable fee & charges towards issuance of certificates as determined by CERC from time to

time. While making application for issuance of RECs, the Applicant (Eligible Entity) shall quote the unique Registration Number assigned to it by Central Agency at the time of registration.

3.2. Step - 2: After receipt of physical application for issuance of renewable energy certificates from the Eligible Entity, the Central Agency shall undertake a preliminary scrutiny within 6 working days to ensure that the Application Form is complete in all respect along with necessary documents and applicable fees and charges. As part of preliminary scrutiny, the Central Agency shall satisfy that the following conditions are fulfilled by the RE generators or distribution licensee, as the case may be:

- a) The application is made in the format specified by the Central Agency from time to time.
- b) The status of Accreditation of the Eligible Entity with the State Agency has not expired. The status of Registration of the Eligible Entity with the Central Agency has not expired.
- c) The duly certified EIR/ Recommendation of SERC for issuance of RECs is attached for the same period for which application is made towards issuance of Renewable Energy Certificate by the Eligible Entity.
- d) The application is accompanied with fees & charges.

3.3. Step - 3: After conducting the preliminary scrutiny, the Central Agency shall intimate in writing to the Applicant for submission of any further information or clarification, if necessary, to further consider the application for issuance of Renewable Energy Certificates or reject the application.

3.4. Step - 4: While considering any application for issuance of Renewable Energy Certificate, the Central Agency shall verify and ascertain availability of following information:

- a) Verification of the time period for which the Central Agency may have already issued Renewable Energy Certificates to the concerned Eligible Entity.
- b) Verification of Renewable Energy Certificates claimed by the Eligible Entity from the duly certified Energy Injection Reports by the concerned State Load Despatch Centre in respect of concerned Eligible Entity.
- c) Details of fee & charges made for issuance of certificates.
- d) Confirmation of Compliance Auditor report, if any.

3.5. Step - 5: The Central Agency shall issue Renewable Energy Certificates to the Eligible Entity only after confirming, the claims made by the Eligible Entity, with the duly certified EIR forwarded by the SLDC/ Recommendation of SERC for issuance of RECs . In case of any discrepancy, in the EIR enclosed by the Eligible Entity along with Application and regular EIR received by Central Agency from concerned State Load Despatch Centre, the information contained in regular EIR furnished by concerned State Load Despatch Centre shall be considered as final and binding for the purpose of issuance of Renewable Energy Certificates.

...”

24. Regulation 7(2) of the Central Electricity Regulatory Commission (Terms and Conditions for Recognition and Issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 provides as follows:-

“7. Denomination and Issuance of Certificates

(1) The eligible entity other than distribution licensee shall apply to the Central Agency for certificates within six months from the corresponding generation from eligible renewable energy projects:

Provided that the application for issuance of certificates may be made on 10th, 20th and last day of the month.

(2) The Certificates shall be issued to the eligible entity after the Central Agency duly satisfies itself that all the conditions for issuance of Certificates, as may be stipulated in the detailed procedure, are complied with by the eligible entity.

...”

25. From the above, the Commission observes that as per mandate of the REC Regulations, 2010 and the REC Issuance Procedures, the eligible entity has to apply for issuance of REC on the Web Based Application as per the details given in the Energy Injection Report (EIR issued by the SLDC / Recommendation of SERC for issuance of RECs) and shall also submit the same information in physical form with the Central Agency within six months. Central Agency has to verify the application in terms of the Energy Injection Reports by the concerned State Load Despatch Centre in respect of the concerned Eligible Entity, fee & charges for issuance of certificates and compliance auditors report if any.
26. The Commission observes that in the instant case there is an admitted delay of four days in filing the application for issuance of RECs for the month of February 2018. The Commission observes that as per the principle laid down for grant of RECs, if the Petitioner is engaged in generation of electricity from renewable energy sources then it shall be eligible for issuance of RECs if it sells the electricity generated to the distribution licensee of the area in which the eligible entity is located, at the pooled cost of power purchase of such distribution licensee as determined by the Appropriate Commission or selling power to third party/open access or for generating and injecting power for captive use subject to the eligibility criteria as per the REC Regulations, 2010 as amended from time to time. Further, the main objective of REC Regulations, 2010 is to promote the generation of renewable energy and we observe that there was generation of renewable energy for the period mentioned above.
27. The Commission observes that the Petitioner has accepted that delay of four days in filing of the application for issuance of RECs for the month of February 2018 was caused due to inadvertent inaction/oversight of the facilitator and has prayed for condoning the delay and issuance of equivalent RECs. The Respondent has also given “No Objection” before the Commission on 24.09.2019 on this issue. In our view, the delay of four days in submitting the

application is technical in nature and causes no harm to any of the stakeholders, including the Respondent. Accordingly, we direct the Respondent to process the case of the Petitioner for grant of RECs for the month of February, 2018 within one month from the date of issue of this Order after due verification. We also direct the Petitioner to be careful in future and comply with the provisions of the REC Regulations, 2010.

28. Accordingly, the Petition No. 50/MP/2019 is disposed of.

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